

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THIRD CHURCH of CHRIST, SCIENTIST, of
NEW YORK CITY,

Plaintiff,

-against-

THE CITY OF NEW YORK and PATRICIA J.
LANCASTER, in her official capacity as
Commissioner of the New York City Department
of Buildings,

Defendants.
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07-CV-10962 (DAB)

**TEMPORARY RESTRAINING
ORDER**

WHEREAS, Plaintiff gave notice to defendants City of New York ("City") and Patricia J. Lancaster, in her official capacity as Commissioner of the New York City Department of Buildings (collectively, "Defendants" or the "City"), of its intention to seek a temporary restraining order, pending determination of the Plaintiff's application for a preliminary injunction, enjoining and restraining the City, its agents, and all those acting on its behalf or under its control, from implementing or enforcing so much of the determination of the New York City Department of Buildings, dated November 30, 2007 (the "Final Determination"), that revoked the earlier-issued building permits authorizing construction work to take place at 583 Park Avenue, New York, New York (the "Construction Permits") and revoked the earlier-issued approval for the Plaintiff to allow catered social events to be held in its premises at 583 Park Avenue (the "Building") pursuant to a contract with a third party (the "Accessory Use Approval").

WHEREAS, on December 3, 2007, the Court heard argument by both parties on Plaintiff's motion for a temporary restraining order. At that hearing, Plaintiff's counsel submitted to the Court the declaration of Jay A. Segal, sworn to on December 3, 2007, and the exhibits annexed thereto, the declaration of Thomas G. Draper, Jr., sworn to December 3, 2007, and the exhibits annexed thereto, the Complaint filed on December 3, 2007, and a Memorandum of Law (collectively, the "Motion Papers");

WHEREAS, prior to argument at the December 3, 2007 hearing, attorneys for Plaintiff duly served the Motion Papers as well as the Summons and Complaint in this action by hand on counsel for Defendants who agreed to accept service on behalf of Defendants;

NOW, THEREFORE, IT IS HEREBY ORDERED that, pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, pending the hearing and determination of Plaintiff's application for a preliminary injunction, the City, its agents, and all those acting on its behalf or under its control, BE, AND HEREBY ARE, TEMPORARILY RESTRAINED from taking any action to enforce or implement so much of the Final Determination that (i) revokes the Construction Permits; and/or (ii) revokes the Accessory Use Approval; provided, however, that, until the application for a preliminary injunction is decided, Plaintiff agrees to limit the extent of catered social events to be held at the Building as follows:

A. *Number of events:* 125 annually, provided that, for the period December 3, 2007 – December 31, 2008, a total of 125 events (including the 37 events that already have been booked) may be held (the "Events");

B. *Duration of Events:* 60% of Events to conclude by or before 11 p.m.; 30% to conclude by or before midnight; 10% to conclude by or before 2:00 a.m.;

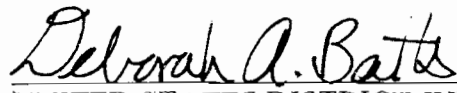
C. *Size of Events:* for the 37 Events already booked, the event size is "grandfathered"; of the 88 Events to be booked and/or conducted during the period December 3, 2007 – December 31, 2008: 60% to be attended by guests numbering between 101 and 500; 25% to be attended by guests numbering between 501 and 700; 10% to be attended by guests numbering between 701 and 900; and 5% to be attended by guests numbering 901 to the capacity of the Building;

D. *Monitor*: Plaintiff is to arrange for the engagement of an independent monitor of crowd size and duration of the Events; and,

IT IS FURTHER ORDERED that any papers in opposition to this application for a preliminary injunction shall be served by hand on Plaintiff's counsel, with a copy delivered by hand or electronic mail, and filed and delivered to this Court, on or before January 31, 2008. Any reply papers shall be served by hand on Defendants' counsel, with a copy delivered by hand or electronic mail, and filed and delivered to this Court, on or before February 14, 2007; and,

IT IS FURTHER ORDERED that a conference call with the Court and all parties shall be held some time after February 14, 2007, on a date and time to be determined. At that time, the Court will consider the scope of discovery that the parties may seek of one another, or of any non-party, prior to any hearing or determination for the preliminary injunction relief sought herein.

Dated: New York, New York
December 6, 2007


UNITED STATES DISTRICT JUDGE
HONORABLE DEBORAH A. BATTS